



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-62
Site: 52 Thurston Street
Date of Decision: December 17, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 31, 2008

ZBA DECISION

Applicant Name:	Mark Kon
Applicant Address:	5 Aston Place, Cambridge, MA 02138
Property Owner Name:	The Convent Preservation Trust, LLC
Property Owner Address:	5 Aston Place, Cambridge, MA 02138
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant: Mark Kon & Owner: The Convent Preservation Trust, LLC seek a special permit (SZO §7.11.2.b) to convert an existing dwelling to three dwelling units. RA zone. Ward 4.

<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§7.11.2.b
<u>Date of Application:</u>	November 19, 2008
<u>Date(s) of Public Hearing:</u>	December 17, 2008
<u>Date of Decision:</u>	December 17, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-62 was opened before the Zoning Board of Appeals at Somerville City Hall on December 17, 2008. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to convert the former religious dwelling to a three-family dwelling. There are no proposed changes to the structure. The proposed alterations to the site include a new curb cut, driveway, and six parallel parking spaces. Four trees ranging in size from 6 inches to 7.5 inches in diameter would be removed. The three large trees in the front yard would remain. Pavers would be used instead of asphalt in the front of the driveway to improve its appearance and drainage. The site would be regraded such that run-off would flow into the lawn.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.2.b):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

The proposal conforms to the standards of Zoning Ordinance related to parking and dimensional requirements. The existing nonconformities of floor area ratio, height and rear yard setback would not be altered.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, including providing for and maintaining the uniquely integrated structure of uses in the City, conserving the value of land and buildings, and preserving the historical and architectural resources of the City. The proposal is consistent with the purpose of the district, which is in part to establish and preserve quiet neighborhoods free from other uses except those which are both compatible with and convenient to the residents of such districts.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The existing structure would be preserved with the change in use. The parking for the three dwelling units is designed in a manner that is compatible with the surrounding area. The parking area would be partially screened with existing trees in the front yard and include pavers in portions of the driveway that would be pervious to rainwater.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the conversion an existing religious dwelling to three dwelling units. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Nov 3, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Oct 23, 2008 (Nov 23, 2008)</td><td>Plans submitted to OSPCD (E-1: Existing Floor Plans, A1: Proposed Floor Plans, E-2: Existing Elevations)</td></tr><tr><td>Dec 3, 2008 (Dec 4, 2008)</td><td>Modified plans submitted to OSPCD (Z-1: Zoning Compliance)</td></tr></table>				Date (Stamp Date)	Submission	Nov 3, 2008	Initial application submitted to the City Clerk’s Office	Oct 23, 2008 (Nov 23, 2008)	Plans submitted to OSPCD (E-1: Existing Floor Plans, A1: Proposed Floor Plans, E-2: Existing Elevations)	Dec 3, 2008 (Dec 4, 2008)	Modified plans submitted to OSPCD (Z-1: Zoning Compliance)
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Any changes to the approved site plan, elevations, or use that are not <i>de minimis</i> must receive ZBA approval.												
2	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW									
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P									
4	The Applicant shall remove the chain link fence in the front yard of the property.	CO	Plng.									
5	The Applicant shall install a code compliant fire alarm system.	CO	FP									
6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.									

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Fillis
Elaine Severino (Alt.)

Attest, by the Zoning Board of Appeals Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____